

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JEFFREY LAPINSKE, <i>et al.</i> ,  Plaintiffs,  v.  CITY OF GRAND HAVEN,  Defendant.	Case Number 19-cv-00162-RJJ-RSK  Honorable Robert J. Jonker Honorable Ray Kent  Oral Argument Requested
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MOTION FOR JOINDER

Defendant City of Grand Haven ("City"), pursuant to F.R.Civ.P. 12(b)(7) and 19, for its Motion ("Motion") for Joinder, states:

1. On March 11, 2019, Plaintiffs filed their First Amended Complaint ("Complaint") against the City.
2. The Complaint involves Duncan Park ("Duncan Park"), which is a park "created through a charitable trust for the benefit of Grand Haven and its people." *Estate of Nash by Nash v. Grand Haven*, 321 Mich.App. 587, 599; 909 N.W.2d 862 (2017), *lv appeal denied*, 503 Mich. 870 (2018).
3. Because this action involves a charitable trust, *Nash*, 321 Mich.App. at 599, the Michigan Attorney General is a necessary party to this subsequent case involving Duncan Park, *Nash*, 321 Mich.App. at 602-4. *See also* M.C.L. § 14.254(b) ("The attorney general is a necessary party to all court proceedings (1) to terminate a charitable trust . . . or (2) to modify or depart from the objects or purposes of a charitable trust . . . or (3) to construe the provisions of an instrument with respect to a charitable trust").

4. Under Rule 19, the Court should require Plaintiffs to join the Michigan Attorney General as a party or otherwise dismiss the case, which involves a charitable trust that, according to M.C.L. § 700.1302, is within the “exclusive legal and equitable jurisdiction” of the Michigan Probate Court.

5. In further support of its Motion, the City relies on the Brief In Support Motion for Joinder, which states the legal grounds for, and propriety in granting, this Motion.

6. Pursuant to W.D.Mich. L.Civ.R. 7.1(d), counsel for the City ascertained that Plaintiffs do not concur in the relief sought in this Motion. [Exhibit A (Rule 7.1(d) Certificate).]

7. The City requests oral argument on its Motion.

Therefore, the City requests that the Court:

A. Grant this Motion;

B. Require Plaintiffs to join the Michigan Attorney General as a party under Rule 19(a) or otherwise dismiss the case under Rule 19(b); and

C. Grant the City all other appropriate relief.

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Dated: March 29, 2019

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